

**Alcohol and Tobacco Tax and Trade Bureau, Treasury****§ 46.237****§ 46.222 Floor stocks tax rates.**

Type or kind	January 1, 2000	January 1, 2002
Small Cigarettes (3 pounds or less per 1,000) .....	\$5 per 1,000 or 10 cents per 20 .....	\$2.50 per 1,000 or 5 cents per 20
Large Cigarettes (more than 3 pounds per 1,000)	\$10.50 per 1,000 or 21 cents per 20	\$5.25 per 1,000 or 10.5 cents per 20
Special rule: For large cigarettes over 6½ inches long determine the rate for each length. Multiply the rate prescribed for small cigarettes by the whole number that represents the addition of each 2¾ inches and any fraction of the length, as one (1)		

**§ 46.223 Apply tax credit.**

You are allowed a credit against your floor stocks tax of up to \$500. However, controlled groups are eligible for only one credit for the entire group. The credit may be divided equally among the members or apportioned in any other manner agreeable to the members.

**FILING REQUIREMENTS****§ 46.231 How to obtain a tax return.**

Form 5000.28T, Floor Stocks Tax Return for Cigarettes, is available for printing through the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T. D. TTB-44, 71 FR 16956, Apr. 4, 2006]

**§ 46.232 Prepare tax return.**

If your tax liability is zero, you do not have to complete or file a tax return. Otherwise, complete and file the floor stocks tax return in accordance with the instructions for the form.

**§ 46.233 How to pay.**

(a) *Check or money order.* Your payment must be in the form of a check or money order and sent with Form 5000.28T unless you are required to file by electronic fund transfer as described in paragraph (b) of this section.

(b) *Electronic fund transfer.* If you pay any other excise taxes collected by TTB by electronic fund transfer, then you must also send your payment for this floor stocks tax by an electronic fund transfer. Publication 5000.10, Payment by Electronic Funds Transfer, specifies how to make an electronic

fund transfer. Publication 5000.10 is available for printing through the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T. D. TTB-44, 71 FR 16956, Apr. 4, 2006]

**§ 46.234 Tax return due dates.**

Tax increase date	File tax return no later than:
January 1, 2000 .....	March 31, 2000 <sup>1</sup>
January 1, 2002 .....	April 1, 2002

<sup>1</sup> Section 9302(j) of P.L. 105-33 states that the due date is April 1, 2000. However, section 5703(b)(2)(E) of the Internal Revenue Code requires that when a due date falls on a Saturday, Sunday or a legal holiday, the preceding day that is not a Saturday, Sunday or legal holiday will be the due date. Therefore, the floor stocks tax for this period is due on March 31, 2000 since April 1, 2000, falls on a Saturday.

**§ 46.235 Filing requirements for multiple locations.**

You may file a consolidated return if all locations or places of business have the same employer identification number. You also have the option of filing a separate return for each place of business or location.

**§ 46.236 Cigarettes in a warehouse.**

(a) Cigarettes warehoused at one or more locations must be reported on the tax return representing the location where the cigarettes will be offered for sale.

(b) Cigarettes offered for sale at several locations must be reported on a tax return filed by one or more of the locations. The cigarettes can be reported by a single location or apportioned among several locations.

**§ 46.237 Controlled group members.**

If you are a member of a controlled group, you must file if the combined liability with other members is more

**§ 46.241****27 CFR Ch. I (4–1–07 Edition)**

than \$500. If you have your own employer identification number, you must file a separate tax return. You may take the tax credit discussed in § 46.223 if it is apportioned to you as a member of the controlled group.

**RECORDS****§ 46.241 Required records.**

You must maintain:

- (a) Inventory records.
- (b) Tax computations.
- (c) Names, addresses and employer identification number of all controlled group members, if applicable.

(d) Copy of tax return, if you filed one.

(e) List of locations and warehouses covered by the tax return.

(f) Any approved alternate method or procedure under 46.263.

**§ 46.242 Period for maintaining records.**

An appropriate TTB officer may require, in writing, that you keep records and any tax returns for an additional period of not more than 3 years. Keep your records in accordance with time frames shown in the table to this section.

If you have:	Maintain your records for at least:
Taken an inventory but are not required to file a tax return .....	3 years from the tax increase date.
Filed a tax return on or before the due date of the return .....	3 years from the due date of the tax return, as specified in § 46.234.
Filed a tax return after the due date of the tax return .....	3 years from the date of filing the tax return.

**§ 46.243 Cigarettes at multiple locations.**

You must maintain a list of each place where you hold cigarettes subject to the floor stocks tax. This list must include:

- (a) Address.
- (b) Name of the proprietor (if different).
- (c) The employer identification number (if different).
- (d) Quantity and classification of all cigarettes held at each location.

**§ 46.244 Where records must be maintained.**

Keep your inventory records at your principal place of business. All records must be made available to an appropriate TTB officer upon demand.

**§ 46.245 Errors in records.**

If your inventory records or tax computation records contain an error that resulted in an overpayment of tax, you can file a claim for refund. If your inventory or tax computation records contain an error that resulted in an underpayment of tax, you must file an additional tax return on which you show and pay the additional tax, interest and any applicable penalties.

**CLAIMS****§ 46.251 Before filing a claim.**

Before you can file a claim for refund, you must have paid your floor stocks tax on TTB F 5200.28T and subsequently determined that you overpaid the tax.

**§ 46.252 When to file a claim for errors on return.**

You must file the claim within 3 years from the due date of filing the tax return or 2 years from the time the tax was paid, whichever is later.

**§ 46.253 How to file a claim for errors on return.**

Your claim must be filed on TTB Form 2635 (5620.8). The claim must include detailed and sufficient evidence to support why you believe the tax was overpaid. The claim and supporting documentation must be mailed or delivered to the address shown on the form.

(Approved by the Office of Management and Budget under control number 1512-0554)

**§ 46.254 Destruction of cigarettes by a Presidentially-declared major disaster.**

After you have paid the floor stocks tax, you may file a claim for refund of